

**REMARKS**

In response to the Office Action mailed on March 24, 2008, Applicant respectfully requests reconsideration of all rejections in the outstanding Office Action in view of the foregoing amendments and following remarks. Claims 1-2, 19-28, 30-38 are currently pending.

**I. Summary**

In order to expedite the allowance of the present application, Applicant has amended the claims to incorporate what the Examiner has indicated is allowable. To this end, Applicant has amended the claims as suggested by the Examiner to overcome the objections and rejections under paragraph 2 of 35 U.S.C. §112. Furthermore, as the examiner has indicated claim 29 would be allowable as an independent claim, Applicant has incorporated the limitations of claim 29 into independent claim 21 from which claim 29 depended. Applicant has also incorporated the limitations recited in claim 29 into independent claim 36. With these amendments, Applicant submits that all claims now are allowable in accordance with the Examiner's remarks in the Office Action.

While Applicant has amended the claims to expedite the allowance of the present application, Applicant reserves the right to pursue the original scope of the claims in a continuation application.

**II. Phone Conversation**

Applicant thanks the Examiner for his time and assistance on May 21, 2008 in discussing claim 36. Examiner indicated that claim 36 *might* be allowable if the additional limitations of claim 29 are incorporated. If upon further examination of amended claim 36 this proves not to be the case, the Applicant requests the Examiner contact the undersigned at 858-382-7513.

**III. Allowed Claims**

Applicant thanks the Examiner for the allowance of claims 1, 2 19 and 20.

**IV. Claim Objections**

The Office Action objects to claims 28 and 33 for informalities. Applicant has amended claims 28 and 33 as suggested by Examiner. Applicant respectfully requests Examiner withdraw his objections. No new matter is introduced by these amendments.

**V. Rejections Under 35 U.S.C. §112**

The Office Action rejects claims 30 and 35 under 35 U.S.C. §112 paragraph 2 as allegedly being indefinite. Applicant has amended claims 30 and 35 as suggested by the Examiner. Applicant submits that the amendments place claims 30 and 35 in condition for allowance. No new matter is introduced by these amendments.

**VI. Claims 21-35**

The Office Action rejects claims 21-28 and 34-35 under 35 U.S.C. §102(e) as allegedly being anticipated by *Prasad* (6,049,542). The Office Action also rejects claims 30-33 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Prasad* in view of *Huang* (U.S. Patent No. 5,841,775). The Examiner has indicated that claim 29 is allowable if written independently.

Applicant has cancelled claim 29 and incorporated its limitations into claim 21. As amended claim 21 now expresses claim 29 in independent form which the Examiner indicated was allowable. Therefore, independent claim 21 as amended is allowable over the art of record and the Examiner should withdraw his rejection of this claim and allow the claim.

Furthermore as a matter of law claims 22-28 and 30-33 are allowable. For at least the reason that independent claim 21 is allowable over the cited references of record, dependent claims 22-28 and 30-33 (which depend from independent claim 21) are allowable as a matter of law for at least the reason that dependent claims 22-28 and 30-33 contain all the features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d

1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection of claims 22-28 and 30-33 should be withdrawn and the claims allowed.

## VII. Claims 36-38

The Office Action rejects claims 36-37 under 35 U.S.C. §102(e) as allegedly being anticipated by *Prasad* (6,049,542). Amended independent claim 36 recites:

A method of reconfiguring comprising:

designating a scalable switching network for downgrading having a plurality of stages of switching elements, a plurality of internal ports, a plurality of external ports, and a plurality of internal connections, wherein the internal ports and external ports are coupled to one of the switching elements and the internal connections are coupled to two of the internal ports;

providing a post-reconfiguration architecture;

deactivating any external ports connected to any hardware not present in the post-reconfiguration architecture;

assigning to each internal port a corresponding port defined by the post-reconfiguration architecture;

rewiring any internal port on the basis of the post-reconfiguration architecture; and

removing any hardware not present in the post-reconfiguration architecture,  
*wherein the rewiring comprises:*

*selecting a selected port of the plurality of internal ports that is not coupled to the corresponding port assigned to said selected port;*

*breaking a first connection coupled to the selected port, if the selected port is coupled to a first connection;*

*breaking a second connection coupled to the corresponding port assigned to the selected port, if the corresponding port assigned to the selected port is coupled to said second connection; and*

*connecting the selected port to the corresponding port assigned to the selected port by coupling a third connection to the selected port and to the corresponding port assigned to the selected port.*

Applicant has amended claim 36 to incorporate the additional limitations of claim 29 as indicated by the highlighted text. Assuming *arguendo* as alleged in the Office Action, original claim 21 is anticipated by the prior art, but claim 29 is allowable, then the art fails to teach, suggest or disclose every element added by claim 29. Therefore, by adding each element added

by claim 29 to claim 36, claim 36 is made allowable over the art of record. The rejection to claim 36 should be withdrawn and the claim allowed.

Applicant has added claim 38 which incorporates the limitation “pre-connecting any internal port on the basis of the post-reconfiguration architecture” which was previously in claim 36, no new matter is added.

Furthermore as a matter of law claims 37-38 are allowable. For at least the reason that independent claim 36 is allowable over the cited references of record, dependent claims 37-38 (which depend from independent claim 36) are allowable as a matter of law for at least the reason that dependent claims 37-38 contain all the features of independent claim 1. Therefore, the rejection of claims 37-38 should be withdrawn and the claims allowed.

### **VIII. Miscellaneous Issues**

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-2, 19-28, and 30-38 are in condition for allowance. In particular, Applicant submits that all claims incorporate allowable subject matter as indicated by the Examiner. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the allowance of this matter, the Examiner is invited to call the undersigned at (858) 382-7513. In particular as requested in §II, please contact the Applicant if there are issues with the allowability of claim 36.

Currently, there are 21 total claims and 3 independent claims pending. Applicant has paid for 21 claims and 3 independent claims. Therefore, no fee for excess claims is believed due.

Applicant believes the Response is filed in a timely manner within the three month statutory time period set forth by the Examiner. Accordingly, Applicant believes no fee is due with respect to the present Response and Amendment. Should any fees be due, please call the undersigned at (858) 382-7513 so that the deficiency can be corrected as soon as possible.

Respectfully submitted,

May 21, 2008

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